

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

REINALDO CLAUDIO,

Petitioner,

Case No. 1:09-cv-94

v.

Honorable Paul L. Maloney

MARY BERGUIS,

Respondent.

_____ /

ORDER

This is a habeas corpus action brought by a state prisoner pursuant to 28 U.S.C. § 2254. Plaintiff filed his amended petition on April 24, 2009. On May 4, 2009, the Court issued an opinion and order staying this action and administratively closing the case pending exhaustion of Petitioner's claims in the state courts. This matter now is before the Court upon Petitioner's motion to lift the stay (docket #15).

After this action was stayed, Petitioner filed a motion for relief from judgment in the Kent County Circuit Court raising six grounds for relief. The circuit court denied the motion on June 29, 2009. The Michigan Court of Appeals and the Michigan Supreme Court denied his applications for leave to appeal on February 10, 2010 and September 9, 2010, respectively. Petitioner filed his motion to lift the stay within thirty days of the Michigan Supreme Court's decision. Because Petitioner has exhausted his state-court remedies and complied with the terms of the stay order, the Court will grant his motion to lift the stay and reopen his case for further proceedings.

The Court also will order Petitioner to file a second amended petition on the form provided by the Court. *See* Rule 2(d), RULES GOVERNING § 2254 CASES; W.D. Mich. LCivR 5.6(a).

The amended petition will take the place of all previously filed petitions, and, thus, must include all of the grounds for habeas corpus relief that Petitioner intends to raise. To assist Petitioner, the Court directs the Clerk to send to Petitioner a copy of the form petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody. Petitioner must submit his second amended petition on the requisite form within 28 days from the date of entry of this order. The case number shown above must appear on the front page of the petition. Petitioner must file an original and one complete copy of the second amended petition and any new attachments. Petitioner need not re-submit supporting materials filed with his previous petitions or with his motion to lift the stay. If Petitioner fails to submit a second amended petition in proper form within the time allowed, his action may be dismissed without prejudice by the district judge. Therefore:

IT IS ORDERED that Petitioner's motion to lift the stay (docket #15) is GRANTED and Petitioner's action is REOPENED for further proceedings.

IT IS FURTHER ORDERED that Petitioner shall file a second amended petition on the form provided by the Court within 28 days from the date of entry of this order. Petitioner's failure to submit a second amended petition in proper form within the time allowed may result in dismissal of his action without prejudice.

Dated: October 4, 2010

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge